

From: DOMGWIA.Internet.robert.hawk@hellerehrman.com
Sent: Thursday, September 15, 2005 12:28 PM
To: FHFGD.GWPO2.HORNICKJ
Cc: Bhanu.Sadasivan@hellerehrman.com; clare.tran@hellerehrman.com;
dan.hampton@hklaw.com; Facebook/Connectu-OHSandCo-Counsel@orrick.com;
jwalker@orrick.com; Hart, Pat; Grabow, Troy
Subject: RE: Plaintiff's Motion to Compel re Doc RequestNos.42,44-46,70-71, etc.
Attachments: Mime.822



Mime.822 (12 KB)

You are incorrect that we have not responded to your questions. Aside from our prior email exchanges, which made our position clear, we answered all questions you and Troy posed regarding production by Mr. Saverin during the extensive meet and confer process.

We will address these issues directly with the Court as appropriate.

-----Original Message-----

From: John Hornick [mailto:John.Hornick@finnegan.com]
Sent: Wednesday, September 14, 2005 9:20 PM
To: Hawk, Robert B.
Cc: Pat Hart; Troy Grabow; Sadasivan, Bhanu; Tran, Clare C. M.;
dan.hampton@hklaw.com; Facebook/Connectu-OHSandCo-Counsel@orrick.com;
jwalker@orrick.com
Subject: RE: Plaintiff's Motion to Compel re Doc Request
Nos.42,44-46,70-71, etc.

Dear Robert:

You have not responded to our 9/13/05 2:24pm email set forth below, or to the question set forth in our 9/12/05 9:06pm email (also set forth below). For the reasons set forth in our email exchange on 9/12 and 9/13, we view our motion to compel, filed September 9, 2005, as applicable to Saverin, as well as to the Facebook Defendants. We have thought about this and see no reason to apprise the court of our position unless you believe we should do so. You are on notice, since our 9/13/05 email exchange, that we view the motion as applicable to Saverin. If you do not substantively respond to our motion on or before the due date, we will point out to the Court that Saverin was on notice that we view the motion as applicable to him (and of course we will cite our correspondence on this subject). However, if you believe we need to apprise the court of our position, by stating that Saverin is covered by the motion, or joining Saverin in the motion, we will be happy to honor your request. Please let us know what you prefer.

As I stated in an email on which you were copied on Wednesday (9/14/05), I will be changing email systems on Thursday (9/15/05) and will have no access to email until sometime on Friday (if all goes well). However, I will be out of the office on Friday and Troy is not currently versed on this issue. I will look for your response on Monday. We endeavor to respond to email on a reasonably timely basis. You should never view our delay in responding to an email (or any other communication) as a refusal or failure to respond.

Sincerely,

John

FHFGD 9/13/05 2:24 pm email:

Dear Robert:

As I said, we will clarify, as necessary, depending on your answer to my question, which - using that word attorneys love so much - you "refuse" to provide.

Sincerely,

John

John F. Hornick
Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
901 New York Avenue, N.W.
Washington, D.C. 20001

Phone (direct): (202) 408-4076
Phone (main): (202) 408-4000
Fax: (202) 408-4400
E-Mail: john.hornick@finnegan.com
Firm Web site: www.finnegan.com

NOTICE: This e-mail is from a law firm and may contain information that is confidential, protected, or privileged. If you are not the intended recipient, please delete the e-mail and any attachments and notify us immediately. Thank you.

John F. Hornick
Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
901 New York Avenue, N.W.
Washington, D.C. 20001

Phone (direct): (202) 408-4076
Phone (main): (202) 408-4000
Fax: (202) 408-4400
E-Mail: john.hornick@finnegan.com
Firm Web site: www.finnegan.com

NOTICE: This e-mail is from a law firm and may contain information that is confidential, protected, or privileged. If you are not the intended recipient, please delete the e-mail and any attachments and notify us immediately. Thank you.

>>> "Hawk, Robert B." <robert.hawk@hellerehrman.com> 09/13/05 02:00PM >>>
We will note plaintiff's refusal to clarify its own motion in our response to the Court.

-----Original Message-----

From: John Hornick [mailto:John.Hornick@finnegan.com]
Sent: Tuesday, September 13, 2005 10:53 AM
To: Hawk, Robert B.
Cc: Pat Hart; Troy Grabow; Sadasivan, Bhanu; Tran, Clare C. M.;
dan.hampton@hklaw.com; Facebook/Connectu-OHSandCo-Counsel@orrick.com;
jwalker@orrick.com
Subject: RE: Plaintiff's Motion to Compel re Doc Request Nos.
42,44-46,70-71, etc.

Dear Robert:

Our answer depends on your answer. Your answer, at this point, is evasive, which leads us to answer that the motion does apply to Saverin. Unless you can tell us that you are not withholding documents responsive to the requests covered by the motion, we will need to tell the Court that the motion does apply to Saverin. If you tell us that you are not withholding documents responsive to the requests covered by the motion, our answer will be different. Based on your current answer, we must assume that you are withholding such documents.

Sincerely,

John

John F. Hornick
Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
901 New York Avenue, N.W.
Washington, D.C. 20001

Phone (direct): (202) 408-4076
Phone (main): (202) 408-4000
Fax: (202) 408-4400
E-Mail: john.hornick@finnegan.com
Firm Web site: www.finnegan.com

NOTICE: This e-mail is from a law firm and may contain information that is confidential, protected, or privileged. If you are not the intended recipient, please delete the e-mail and any attachments and notify us immediately. Thank you.

>>> "Hawk, Robert B." <robert.hawk@hellerehrman.com> 09/13/05 01:17PM >>>
John, I am not inclined at this point to revisit the entire meet and confer process. You have certified to the Court that the parties have met and conferred sufficiently -- certainly enough to know each other's respective positions. My reading of your motion and the requests that it addresses indicates to me that plaintiff intended to direct it to TheFacebook defendants. In that light, I believe I posed a reasonable question to you whether plaintiff intended to direct the motion in any respect towards Defendant Saverin. If you decline to answer, so be it. If you have an answer to give, I would appreciate getting it.

-----Original Message-----

From: John Hornick [mailto:John.Hornick@finnegan.com]
Sent: Monday, September 12, 2005 9:06 PM
To: Troy Grabow; Hawk, Robert B.
Cc: Pat Hart; Sadasivan, Bhanu; Tran, Clare C. M.;
dan.hampton@hklaw.com; Facebook/Connectu-OHSandCo-Counsel@orrick.com;
jwalker@orrick.com
Subject: Re: Plaintiff's Motion to Compel re Doc Request Nos. 42,
44-46, 70-71, etc.

Robert:

Are you withholding any documents responsive to the requests covered by the motion?

John

John F. Hornick
Finnegan, Henderson, Farabow,

Garrett & Dunner, L.L.P.
901 New York Avenue, N.W.
Washington, D.C. 20001

Phone (direct): (202) 408-4076
Phone (main): (202) 408-4000
Fax: (202) 408-4400
E-Mail: john.hornick@finnegan.com
Firm Web site: www.finnegan.com

NOTICE: This e-mail is from a law firm and may contain information that is confidential, protected, or privileged. If you are not the intended recipient, please delete the e-mail and any attachments and notify us immediately. Thank you.

>>> "Hawk, Robert B." <robert.hawk@hellerehrman.com> 09/12/05 05:37PM >>>
John and Troy:

I have reviewed Plaintiff's referenced motion and find no part of the Motion directed in substance to Defendant Saverin -- despite the fact that the entire Motion is nominally directed to all defendants. If you did not intend to direct the Motion to Defendant Saverin, requiring a response from us, we ask that you file promptly with the Court something to make clear your intent, e.g. ,an amended notice of motion. If you disagree, please let us know that right away as well. Thanks.

Robert B. Hawk | Attorney | HellerEhrmanLLP | 275 Middlefield Road | Menlo Park, CA 94025
tel: +1.650.324.7165 | fax: +1.650.324.6016 | email:
robert.hawk@hellerehrman.com | web: www.hellerehrman.com

The information contained in this email message may be privileged, confidential and protected from disclosure. If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited. If you think that you have received this email message in error, please notify the sender by reply email and delete the message and any attachments.

The information contained in this email message may be privileged, confidential and protected from disclosure. If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited. If you think that you have received this email message in error, please notify the sender by reply email and delete the message and any attachments.

The information contained in this email message may be privileged, confidential and protected from disclosure. If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited. If you think that you have received this email message in error, please notify the sender by reply email and delete the message and any attachments.

The information contained in this email message may be privileged, confidential and protected from disclosure. If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited. If you think that you have received this email message in error, please notify the sender by reply email and delete the message and any attachments.